Amendments to the Drawings:

A Formal drawing is submitted herewith which incorporates the changes required by the Examiner. Approval by the Examiner is respectfully requested.

Attachment: Replacement Figure 1

REMARKS

Claims 1-69 are subject to restriction and/or election requirement. Claims 1-69 are presently pending in the application. Favorable reconsideration of the application in view of the following remarks is respectfully requested.

The basis for the amendment of claims 1 and 66 is found on pg. 4, lines 21-23 ("*The inherent fluorescence of the gelatin can be significantly reduced by incorporating one or more filler species within the gelatin layer.*"), pg. 6, lines 18-20 ("*More optimally, a filler, added to the gelatin, will reduce the amount of inherent fluorescence derived from the gelatin still further, which manifests itself as additional background noise reductions.*"), Example 3, pg. 33, lines 10-12 ("*This example also illustrates the reduction of background fluorescence by incorporating filler particles into gelatin binder to produce a filled gelatin layer.*"), and Example 3, pg. 35, lines 6-9 ("*The results in Table 1 and 2 indicate that, in comparison to the control sample, the gelatin coatings with filler particles incorporated in the gelatin layer provide a substrate with much reduced fluorescence background as well as improved antibody binding capacity.*") of the specification as originally filed.

Restriction Requirement under 35 U.S.C. § 121:

The Examiner has required restriction under 35 U.S.C. § 121 to one of the following inventions:

I. Claims 1-4, 7-11, 37-42, 51-55 and 64-65, drawn to a biological microarray wherein the support comprises glass, classified in class 436, subclass 527.

II. Claims 1 and 5-6, drawn to a biological microarray wherein the support comprises a polymer, classified in class 436, subclass 531.

III. Claims 1 and 12-15, drawn to biological microarray wherein the filler comprises insoluble synthetic polymers, classified in class 436, subclass 518+.

IV. Claims 1, 12-13 and 16-17, drawn to biological microarray wherein the filler comprises monodisperse polymer particles, classified in class 436, subclass 518+.

V. Claims 1, 12-13, 18-24, drawn to biological microarray wherein the filler comprises polymer particles made from monomers containing alpha, beta ethylene unsaturation, classified in class 436, subclass 531.

VI. Claims 1, 12-13 and 25-26, drawn to biological microarray wherein the polymer particles comprise chemically active groups, classified in class 436, subclass 518+.

VII. Claims 1, 12, 27-29, drawn to a biological microarray wherein the polymer comprise soluble polymers, classified in class 436, subclass 531+.

VIII. Claims 1, 12 and 30-31, drawn to biological microarray wherein the polymer comprise soluble polymers comprising natural soluble polymer, classified in class 436, subclass.531+.

IX. Claims 1,12, 32-33, drawn to biological microarray wherein the polymer comprises soluble polymers comprising synthetic soluble polymer, classified in class 436, subclass 531+.

X. Claims 1, 12 and 34-36, drawn to a biological microarray wherein the inorganic particles comprise inorganic oxide or powder, classified in class 436, subclass 524.

XI. Claims 1, 43-45 and 49, drawn to biological microarray wherein the functional polymer compound has Formula I, classified in class 436, subclass 518+.

XII. Claims 1, 43-44 and 46-47, drawn to biological microarray wherein the nonionic monomers comprise at least one member from the recited group, classified in class 436, subclass 518+.

XIII. Claims 1, 43, 48, drawn to biological microarray wherein the G from the formula is one of the recited polymerized form recited in e.g., claim 48, classified in class 436, subclass 524+.

XIV. Claims 1. 43 and 50, drawn to biological microarray wherein H from the formula II is represented therein, classified in class 436, subclass 518+.

XV. Claims 1 and 56-60, drawn to biological microarray further comprising a capture agent, classified in class 436, subclass 518+.

XVI. Claims 1, 56-57 and 61-63, drawn to biological microarray wherein the polymer scaffold comprises' at least one-precursor polymer, classified in class 436, subclass 518+.

XVII. Claims 66-69, drawn to a method of making a microarray, classified in class 436, subclass 518+;

indicating that Inventions I-XV and XVI are directed to related biological microarray, and the related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. The Examiner states that, in the instant case, the inventions as claimed have materially different design e.g., the microarray of Group I, comprises a support comprise of glass materially different from a polymer support of Group II, and the inventions of Groups III-XVI differ in the additional components present in the microarray or comprise different kinds of filler/gelatin. The Examiner continues that the Inventions I-XVI and XVII are related as process of making and product made, as the inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process, and, in the instant case the process as claimed can be used to make another and materially different product, as shown by the different products using different components and/or additional compositions.

The Applicants elected Invention Group X, Claims 1, 12 and 34-36, drawn to a biological microarray wherein the inorganic particles comprise inorganic oxide or powder, classified in class 436, subclass 524, with traverse. As stated by the Examiner, MPEP 806.05(j) indicates restriction is proper when (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. Claim 1 relates to a biological microarray comprising a support having thereon a layer of fluorescence-reducing filler and gelatin, and at least one functional compound capable of interacting with gelatin and a biological capture agent. A design is not materially different just because the support may be made of two different materials. The biological microarrays of the claims all have the same design, function and effect. Furthermore, the inventions as claimed encompass overlapping subject matter, as they all relate to a biological microarray of filler, functional compound and gelatin. One of ordinary skill in the art would consider supports of glass and plastic from Groups I and II to be obvious variants. One of ordinary skill in the art would consider the fillers from Groups III - X to be obvious variants. One of ordinary skill in the art would consider functional compounds of Groups XI-XIV, based on claim 43, to be obvious variants. In addition, claim 1 requires the functional compound to be compatible with a biological capture agent, making the inclusion of a biological capture agent from Group XV to be an obvious variant. The Examiner's own analysis indicates that all of the Invention Groups identified are contained in a single class, class 436. The Examiner has also indicated that the Invention Groups only relate to 4 subclasses, sub-classes 527, 531, 518+ and 524. Thus, coextensive searching of the Groups would not prove seriously burdensome to the Examiner, but would instead be most efficient. Therefore, it is respectfully requested that the Restriction Requirement be reconsidered and withdrawn and that all claims now pending be examined.

The Examiner has also indicated Claims 1, 12, 15, 20, 26, 29, 33, 35, 37, 39, 41-47, 50, 57, 62 and 66 are generic to the disclosed patentably distinct species of elected Group X, and has required the Applicants are to elect a single species of inorganic particles as recited in claim 35 ("*silica, colloidal silica, silicon oxide dispersions, fumed silica, aluminum oxide, colloidal alumina, fumed alumina, calcium carbonate, kaolin, talc, calcium sulfate, natural or synthetic clay, barium sulfate, barium sulfate mixtures with zinc sulfide, g-aluminum oxide, chromium oxide, iron oxide, tin oxide, doped tin oxide, alumino-silicate, titanium dioxide, silicon carbide, titanium carbide, diamond in fine powder, titanium dioxide, zinc oxide, or mixtures thereof*"). Applicants elect the species of colloidal silica. The species election is made without traverse.

It is believed that the foregoing is a complete response to the Office Action and that the claims are in condition for allowance. Favorable reconsideration and early passage to issue is therefore earnestly solicited.

Respectfully submitted,

Lynne M. Blank
Attorney for Applicant(s)
Registration No. 42,334

Lynne M. Blank/ct
Rochester, NY 14650
Telephone: 585-477-7418
Facsimile: 585-477-1148

Enclosures: Replacement Figure 1
Copy of Formal Drawing

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.